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23 UNITED STATES DISTRICT COURT

24 NORTHERN DISTRICT OF CALIFORNIA

25 SAN FRANCISCO DIVISION

26 SONOS, INC.,

27 Plaintiff,

28 vs.

GOOGLE LLC,

Defendant.

Case No. 3:20-cv-06754-WHA

Related to Case No. 3:21-cv-07559-WHA

**GOOGLE LLC'S ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL  
PORTIONS OF ITS RESPONSE TO  
SONOS'S REQUEST RE: NO LONGER  
ASSERTED PATENTS (DKT. 699) AND  
PROFFER OF TESTIMONY OF ALAINA  
KWASIZUR (DKT. 715)**

## I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Google LLC (“Google”) hereby requests to file under seal portions of its Response to Sonos’s Request Re: No Longer Asserted Patents (Dkt. 699) and Proffer of Testimony of Alaina Kwasizur (Dkt. 715) (“Response to Request and Proffer”). Specifically, Google requests an order granting leave to file under seal the portions of the document listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Response to Request and Proffer	Portions highlighted in green	Google and Sonos
Exhibit 2	Entire Document	Google and Sonos

## II. LEGAL STANDARD

Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal must file an administrative motion that articulates the applicable legal standard and reasons for keeping a document under seal, includes evidentiary support from a declaration where necessary, and provides a proposed order that is narrowly tailored to seal only the sealable material.

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). In the Ninth Circuit, two different standards may apply to a request to seal a document – namely the “compelling reasons” standard or the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at \*12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). “To seal records in connection with a ‘dispositive’ motion or a motion that ‘more than tangentially relate[s] to the merits of a case,’ ‘compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure’ are required.” *Bronson v. Samsung Elecs. Am., Inc.*, No. C 18-02300 WHA, 2019 WL 7810811, at \*1 (N.D. Cal. May 28, 2019) (quoting *Kamakana*, 447 F.3d at 1178-79). “A particularized showing of ‘good cause’ under Federal Rule

1 of Civil Procedure 26(c), however, suffices to warrant sealing in connection with a non-dispositive  
2 motion.” *Id.*

3 This Court has analyzed sealing requests in connection with evidentiary matters pursuant to  
4 the “good cause” standard for non-dispositive motions. *See, e.g., Gearsources Holdings, LLC v.*  
5 *Google LLC*, No. 18-CV-03812-HSG, 2021 WL 1123630, at \*2 (N.D. Cal. Feb. 24, 2021) (“Because  
6 Defendant’s motion *in limine* is not a dispositive motion, the Court applies the lower good cause  
7 standard.”); *Racies v. Quincy Bioscience, LLC*, No. 15-CV-00292-HSG, 2019 WL 8438448, at \*1  
8 (N.D. Cal. Dec. 16, 2019) (“Because the parties move to file documents related to their motions *in*  
9 *limine*, the Court will apply the lower good cause standard.”); *TVIIM, LLC v. McAfee, Inc.*, No. 13-  
10 CV-04545-HSG, 2015 WL 3776424, at \*2 (N.D. Cal. June 16, 2015) (“Because motions *in limine*  
11 are nondispositive motions, the Court applies the ‘good cause’ standard to the pending motions to  
12 seal.”).

### 13 **III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION**

14 Material that is confidential and could harm a litigant’s competitive standing if disclosed  
15 may be sealed under the good cause standard. *See, e.g., Skillz Platform Inc. v. AviaGames Inc.*, No.  
16 21-CV-02436-BLF, 2022 WL 875654, at \*2 (N.D. Cal. Mar. 24, 2022) (finding “good cause to file  
17 the documents and portions of documents at issue under seal given the sensitive financial and  
18 business information they contain”); *Dugan v. Lloyds TSB Bank, PLC*, No. 12-CV-02549-WHA  
19 NJV, 2013 WL 1435223, at \*2 (N.D. Cal. Apr. 9, 2013) (“There may be ‘good cause’ to seal records  
20 that are privileged, contain trade secrets, contain confidential research, development or commercial  
21 information, or if disclosure of the information might harm a litigant’s competitive standing.”).

22 The portions sought to be sealed contain confidential licensing negotiations that are not  
23 public. Public disclosure of this information would harm Google’s competitive standing and its  
24 ability to negotiate future licensing agreements by giving competitors access and insight into  
25 Google’s highly confidential business thinking and asymmetrical information about Google’s  
26 licensing strategies to other entities. Declaration of Jocelyn Ma ¶ 3. If such information were made  
27 public, Google’s competitive standing would be significantly harmed. Google has therefore  
28 designated this information as HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY under

1 the protective order (Dkt. 92). This Court has previously granted sealing of the same and/or similar  
 2 information. *See, e.g.*, Dkt. 334 at 5.

3 Google thus has good cause to keep such information under seal. *See, e.g., Arista Networks,*  
 4 *Inc. v. Cisco Sys., Inc.*, No. 16-cv-00923-BLF, 2018 WL 2010622, \*2-3 (N.D. Cal. Apr. 30, 2018)  
 5 (sealing “highly confidential” information relating to litigant’s “financial information and internal  
 6 development strategies”); *Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, No. 12-CV-  
 7 03844-JST, 2015 WL 12976921, at \*3 (N.D. Cal. Mar. 31, 2015) (granting motion to seal “sensitive  
 8 business information regarding the amount of royalties received under a licensing agreement and  
 9 also detailed information regarding a confidential licensing and manufacturing agreement” under  
 10 the good cause standard); *Rodman v. Safeway, Inc.*, No. 11-cv-03003-JST, 2014 WL 12787874, \*2  
 11 (N.D. Cal. Aug. 22, 2014) (sealing “internal, nonpublic information discussing [a litigant’s] pricing  
 12 strategy, business decisionmaking, and financial records”).

#### 13 **IV. CONCLUSION**

14 For the foregoing reasons, Google respectfully requests that the Court grant Google’s  
 15 Administrative Motion to File Under Seal Portions of its Response to Request and Proffer.

16  
 17 DATED: May 11, 2023

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